

I found significant issues when I reviewed the 45 filings by Puerto Rico Telephone in their request for a subsidy from the Universal Service Fund. I am a reporter, not a lawyer. I have recently reported on the efforts of the broadband plan to provide broadband service to the poor, which appears not to have enough funding to reach even 25% of those eligible; the dramatic cuts in the total of USF/ICC; and the lack of funding to rapidly reach the remaining broadband unserved. When I saw an ex parte filed by Nancy Victory of Willey Rein that she and former Commissioner Henry Rivera met with Chief of Staff Eddie Lazarus with the intent to get an increase in USF for PRT, I decide to review the record. I intend to write a story about the request later. This filing is about apparent contradictions and omissions in the record I need to research further. Since the issue is already before the Chief of Staff and four commissioners, I realized time might be of the essence so wanted to put this data on the record quickly.

I discovered:

1) At <http://fjallfoss.fcc.gov/ecfs/document/view?id=6518710782> a survey filed by PRT found in 2005 "92.8% of households have either a fixed or a cellular phone." I have included below the methodology of that survey, with a sample size of 1600 households. It appear highly credible. It was actually paid for by Puerto Rico Telephone Co., Inc. ("PRT"), which submitted it to the Puerto Rico Telecommunications Regulatory Board. That leaves 7% who did not have a connection, some of whom surely were servable but did no buy the service because of affordability or other reasons. That suggests that only a few percentage of Puerto Rican homes were not servable in 2005.

2) At <http://fjallfoss.fcc.gov/ecfs/document/view?id=6520036979>, a filing in 2008 by Ben Ross of Willey, Rein stated "Approximately 200,000 households in Puerto Rico have no access to telephone service due to a lack of infrastructure" According to a separate filing by the same firm, those 200,000 households "represents approximately 14.5 percent of all households on the island (200,000 out of 1.369 million)." <http://fjallfoss.fcc.gov/ecfs/document/view?id=6516793127> The figure of unserved homes in 2008 is three to five times the figure in PRT's survey in 2005.

Since the primary purpose of high cost support is to reach those who otherwise would not be served, an error of 300% or more in that figure would lead to poor public policy. If the problem is that many in Puerto Rico are too poor to afford a phone, that would call for action under lifeline/linkup, not high cost support.

3) The figure of 200,000 homes not served in 2008 and today is identical to the figure cited for 2004, implying that PRT spent no money extending their network in that period. This is unlikely unless America Movil violated the terms of their agreement with the FCC for approval of the purchase. "In addition, the Commission conditioned its approval of this transaction on América Móvil investing 1

billion dollars over five years to improve service in Puerto Rico. Moreover, the Commission stated that América Móvil must comply with all applicable U.S. laws, regulations, rules and orders, including the obligation to report broadband availability and telephone penetration data. América Móvil must also provide a written report to the Commission on an annual basis describing the progress it has made in deploying infrastructure used to provide basic telephone and broadband services in Puerto Rico. This report, which shall include quantifiable and verifiable data, shall be due to the Commission on December 31 of each calendar year." http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-271764A1.pdf Can it really be true that over five years and substantial investment no additional homes were reached?

4) I did not find the basic information I sought to determine whether the problem of the unserved was due to lack of capital on the part of American Movil, a lack of investment in the network, or other reasons. In particular, I did not see in the filings a figure for the actual investment in the wireline network nor the depreciation figure to compare that to. The ratio of capex to depreciation is a first test of whether America Movil is maintain the network. It is my opinion that whether America Movil is maintaining the network at least to the level of covering depreciation is an important factor in deciding on a subsidy.

5) The ex parte filings by Ms. Victory have no details of what was discussed in the meetings with Chief of Staff Lazarus, two commissioners, and a half dozen senior staffers. For example, the ex parte on the meeting with Lazarus stated "During the meeting, the participants discussed the Insular Universal Service Fund mechanism proposed in the pending Notice of Proposed Rulemaking consistent with PRT's written communications already filed in this docketed proceeding. Respectfully submitted," There are many similar filings without any details of the substance of the discussion. I do not think that the FCC chief of staff would take time to hear a lawyer repeat to him material already in the written record. This is one of the most crucial periods in FCC history, the release of the broadband plan. I infer that in fact there was more substance in the meeting and have asked Ms. Victory and her colleague Commissioner Rivera to provide that additional information. I have also, as a reporter, asked Mr. Lazarus for a brief call to find out what was the substance of the meeting.

I am certain the filing does not meet the standards set in the recent NPRM and would be surprised if it meets current FCC regulations on ex partes as well. I would expect Ms. Victory, former NTIA administrator, and Commissioner Rivera to know and follow the rules, or quickly amend their filing if anything was overlooked.

I would like to emphasize I am taking no position here on the merits of the application or even of the accuracy of any of the items above. It is my interpretation of what I have read scanning the 400 pages

of the 45 filings below. In particular, I do not know whether there are additional filings I have not yet located. I do believe the issues I raise are important enough the commission will choose to research them further before proceeding on the application. I am continuing to check additional facts, and expect when I write my article I will include editorial opinions as well. I have no interest in this proceeding other than as a reporter seeking information from ex partes and other filings and a citizen concerned with possible government waste.

Proceeding Number	Name of Filer	Lawfirm Name	Date Received	Date Posted	Exparte	Type of Filing
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	03/18/2010	03/18/2010	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	03/12/2010	03/15/2010	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	03/12/2010	03/15/2010	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	03/05/2010	03/05/2010	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	02/22/2010	02/22/2010	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	01/28/2010	01/29/2010	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	01/05/2010	01/05/2010	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	12/17/2009	12/17/2009	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	12/04/2009	12/04/2009	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	12/01/2009	12/01/2009	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	11/17/2009	11/18/2009	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	11/17/2009	11/18/2009	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	11/12/2009	11/12/2009	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (1) Wiley Rein LLP	11/20/2008	04/08/2009	Yes	NOTICE OF EXPARTE
96-45	Puerto Rico Telephone Company, Inc.	View (5) Wiley Rein LLP	08/08/2008	08/11/2008	Yes	

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (4) Wiley Rein LLP 08/06/2008 08/07/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company View (2) Wiley Rein LLP 05/30/2008 06/02/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 05/22/2008 05/23/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 05/16/2008 05/19/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 05/16/2008 05/19/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 05/16/2008 05/19/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 05/16/2008 05/19/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 05/16/2008 05/19/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 05/16/2008 05/19/2008 Yes

NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (1) Wiley Rein LLP 03/09/2007 03/09/2007 No
WITHDRAWAL

96-45 Puerto Rico Telephone Co., Inc. NOTICE (2) Attachment (48) Wiley Rein & Fielding LLP
12/12/2006 12/13/2006 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company LETTER (21) Wiley Rein & Fielding LLP 12/06/2006
12/07/2006 Yes INTENT TO PARTICIPATE IN ORAL ARGUMENT

96-45 Puerto Rico Telephone Company, Inc. NOTICE (1) Wiley Rein & Fielding LLP 11/17/2006
11/20/2006 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. NOTICE (2) Wiley Rein & Fielding LLP 11/14/2006
11/15/2006 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company NOTICE (2) Wiley Rein & Fielding LLP 07/20/2006
07/21/2006 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (22) Wiley Rein & Fielding, LLP 05/26/2006
05/26/2006 No REPLY TO COMMENTS

96-45 Puerto Rico Telephone Company View (46) ATTACHMENT (29) ATTACHMENT (69) Wiley
Rein & Fielding LLP 03/27/2006 03/28/2006 No COMMENT

96-45 Puerto Rico Telephone Company NOTICE (1) Wiley Rein & Fielding LLP 01/25/2006
01/26/2006 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company, Inc. View (5) Wiley Rein & Fielding LLP 01/18/2006
01/19/2006 No COMMENT

96-45 Puerto Rico Telephone Company, Inc. NOTICE (1) Wiley Rein & Fielding LLP 09/13/2005
12/09/2005 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company Notice (1) Wiley Rein & Fielding LLP 09/08/2005 09/12/2005
Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company NOTICE (2) Wiley Rein & Fielding LLP 05/25/2005
05/25/2005 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company NOTICE (1) NOTICE (36) Wiley Rein & Fielding LLP
05/06/2005 05/06/2005 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company NOTICE (2) Wiley Rein & Fielding LLP 04/15/2005
04/19/2005 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company LETTER (5) Wiley Rein & Fielding LLP 03/30/2005
03/31/2005 Yes INTENT TO PARTICIPATE IN ORAL ARGUMENT

96-45 Puerto Rico Telephone Company NOTICE (1) Wiley Rein & Fielding LLP 02/02/2005
02/03/2005 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company LETTER (7) Wiley Rein & Fielding LLP 11/04/2004
11/05/2004 Yes INTENT TO PARTICIPATE IN ORAL ARGUMENT

96-45 Puerto Rico Telephone Company Ex Parte Presentation (1) Wiley Rein & Fielding LLP
10/01/2004 10/04/2004 Yes NOTICE OF EXPARTE

96-45 Puerto Rico Telephone Company View (30) Wiley Rein & Fielding LLP 05/10/2004 05/11/2004
No REPLY TO COMMENTS

96-45 Puerto Rico Telephone Company NOTICE (1) Wiley Rein & Fielding LLP

APPENDIX A: SURVEY METHODOLOGY

Geographic Range

The survey covers all of Puerto Rico's territory.

Population Range

The survey was directed at the population residing in family housing units; that is, units used the full year or most of the year as a permanent dwelling. Not included in the survey are persons residing in collective dwellings (such as hospitals, hotels, convents) or long-term institutions such as prisons, nursing homes and orphanages.

In each household in the sample, a personal interview was conducted with a household member aged 18 years or more who is knowledgeable of the household's usage of telephone services.

Sampling Frame

The sampling frame for the survey is the Year 2000 Census of Population and Housing produced for Puerto Rico by the U.S. Bureau of the Census.

In the census, Puerto Rico's 78 municipalities are divided into census tracts, which are subdivided into block groups. Block groups are further subdivided into blocks. Using census

data, it is possible to make a list of housing units in each block group.

Specifically, the sampling frame consists of:

- The 2,478 block groups in Puerto Rico's 2000 census; and
- The lists of housing units for each of the block groups included in the sample.

Type of Sampling

The survey used probabilistic multi-stage sampling, with stratified first-stage sampling units and probabilities proportional to the sizes of the sampling units.

The sampling was done in three stages:

1. First-stage units are block groups
2. Second-stage units are blocks
3. Third-stage units are households

The first-stage units (block groups) were stratified using the following criteria:

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Geographic – The eight PRT service regions were each assigned a block group sample share proportional to the number of households in each region, as per the census. The regions are:

Metropolitan

East

Central

Southeast

Northeast

Northwest

South

West